

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BOSTON DIVISION
DOCKET NO. 05-11682

L & T YACHT SALES, INC.)
PLAINTIFF,)
)
VS.)
)
POST MARINE CO., INC.)
DEFENDANT)
)

PLAINTIFF'S MOTION TO STRIKE

Now comes Plaintiff, L & T Yacht Sales, Inc., and respectfully moves that the Court strike from the docket and record, Defendant's Supplemental Motion for Summary Judgment filed on January 18th, 2008. Plaintiff states that the grounds for its Motion to Strike are particularly described within the court's ruling entered on the Defendant's Original Motion for Summary Judgment.

Plaintiff respectfully emphasizes that the Defendant has already had sufficient opportunity to argue all five counts brought against the Defendant by the Plaintiff in its original Motion for Summary Judgment and that the court appropriately declined to enter summary judgment in Defendant's favor on one count for breach of contract. Further, the Court had previously established a deadline for the filing of Motions for Summary Judgment in June of 2007. The Defendant has not sought leave of court to file said Motion outside of the time required by Court.

The Plaintiff considers this motion from the Defendant nothing more than an attempt to delay the case currently set for trial on February 19, 2008 and request that the court not allow this misuse of the system, especially at this point in the case. The Plaintiff respectfully request that the court deny the Defendant's Supplemental Motion for Summary Judgment and that this motion should not be part of the official record or docket and it should be stricken therefrom.

The Plaintiff,
By its Attorneys,

/s/ John E. Zajac

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CERTIFICATE OF SERVICE

I, John E. Zajac, Esquire this 1st day of February, 2008 have given notice of the within Plaintiff's Motion to Strike, by e-mail service, via the Court's CM/ECF system which sent notification of such filing to Howard M. Brown, Esquire, Bartlett Hackett Feinberg P.C., 155 Federal Street, 9th floor, Boston, MA 02110 and by regular mail, postage pre-paid to Michel O. Weisz, Esquire, BERGER SINGERMAN, 200 South Biscayne Boulevard, Suite 1000, Miami, FL 33131

/s/ John E. Zajac

John E. Zajac, Esquire